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EXAMINER

STRIMBU, G

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 10/15/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/004,803

Applicant(s)
Epps et al.

Examiner
Gregory J. Stimbu

Group Art Unit
3634



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jan 9, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to because throughout the figures several of the lead lines fail to accurately indicate the element of the invention to which a respective reference character refers. For example, see figure 1, wherein the lead line for reference character "31" fails to accurately indicate a fastener. Additionally, in figure 1, it is unclear what the curved line at the end of the lead line for reference character "11" is intended to represent. In figure 1, "Fig. 2" should be removed to avoid confusion. Although the drawings have been indicated as informal, the applicant is reminded that all cross-sectional views and partial sectional views, such as the one shown in figure 1, require proper cross-sectional shading to indicate the material from which the element(s) of the invention are made. See MPEP 608.02. In figure 1, it appears that the portion of the top frame member 19 which is hidden from view by the building wall 10 should be shown with hidden lines to indicate the proper spacial relationship with respect to the building wall 10. In figure 5, the reference characters "16" and "17" each require a lead line indicating the element

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of the invention to which each of the reference characters respectively refers. Finally, in figure 6, all superfluous lettering should be removed. For example, the lettering "Object B" and "Object is sensed if amount of light at R1 is greater ... at R2" should be removed. Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: " α ". Correction is required.

Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor assembly must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

The abstract of the disclosure is objected to because on line 4, "the internal side" is confusing since it is unclear what element of the invention has the internal side. On lines 4-5, "a fast-food service window" is confusing since it is unclear if the applicant is referring to the same fast-food service window set forth above or is attempting to set forth another window in addition

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to the one set forth above. On line 5, "such to emit" is grammatically awkward and confusing. On line 5, "an infrared beam" is confusing since it is unclear how a plurality of infrared emitter/receivers can emit only one beam. On line 6, "the vertical axis" is confusing since it is unclear what element of the invention has the vertical axis. On line 7, "the clerk" is confusing since it is unclear if the applicant is referring to the employee set forth above or is attempting to set forth another person in addition to the employee set forth above. On line 8, "the horizontal service shelf" is confusing since it is unclear if the shelf comprises part of the window or a part of the building. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the upwardly focused sensor as set forth on line 4 of claim 1.

The disclosure is objected to because of the following informalities: on page 5, line 17, "FIGURE 2 ... in Figure 1" is grammatically incorrect and confusing; on page 6, line 1, it is suggested that the applicant change the second occurrence of "4" to --4-4-- to more accurately refer to the section line shown in figure 3; on page 6, line 3, "the inside wall" is confusing since it appears that the proximity sensor mount is attached to the bottom frame member 18 rather than the wall; on page 6, line 8, it appears that "inventions" should be changed to --invention-- since the applicant has disclosed only one invention; on page 6, line 13, "is generally indicated at 10, is shown" is grammatically awkward and confusing; on page 6, line 15, "an of the building wall 10" is grammatically awkward and confusing; on page 6, lines 19-20, "that hinged at one edge or

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articulate in a manner” is grammatically awkward and confusing; on page 7, line 15, it appears that the first occurrence of “Figure” should be changed to --Figures-- since the applicant is referring to two figures; on page 7, lines 15-16, “a cross-section at line 4 shown in Figure 3” is grammatically awkward and confusing; on page 10, lines 2 and 5, “window pane 29” is confusing since the applicant has already used reference character “29” to refer to the proximity detectors.

Throughout the specification, it is suggested that the applicant avoid referring to the same element of the invention with different language to avoid confusion. For example, on page 5, the applicant should avoid from referring to the same element of the invention as “the bottom window frame” on line 15 and “the bottom frame member of the access window frame” on lines 19-20.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as “the immediate vicinity” on line 7 of claim 1 render the claims indefinite because they lack antecedent basis. Recitations such as “said proximity sensors” on line 7 of claim 1 render the claims indefinite because the applicant has set forth only one sensor above and yet, is referring to more than one sensor. Recitations such as “said movable window member” on lines 3-4 of claim 2 render the claims indefinite because they lack antecedent basis.

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Recitations such as “the sensor centerline” on lines 1-2 of claim 6 render the claims indefinite because they lack antecedent basis. Recitations such as “the vertical axis” on line 2 of claim 6 render the claims indefinite because they lack antecedent basis. Recitations such as “an integral emitter and receiver” on line 2 of claim 7 render the claims indefinite because it is unclear whether all of the sensors have only one integral emitter and receiver or whether each of the sensors has an integral emitter and receiver. Recitations such as “sensor centerline” on line 2 of claim 8 render the claims indefinite because it is unclear if the sensor centerline comprises one of the sensors set forth above. Recitations such as “at least one of the infrared sensors” on lines 1-2 of claim 10 render the claims indefinite because the applicant has only set forth one sensor above and yet, is referring to more than one sensor. Recitations such as “at angle” on line 2 of claim 10 are grammatically awkward and confusing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figure 5 in view of Boiucaner. The admitted prior art of figure 5 discloses a fast food service window comprising a window assembly with at least one movable window member 16, a

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motor assembly (not shown, but disposed behind upper frame member 21) mechanically coupled to the movable member 16, proximity sensor 60 electrically coupled to the motor assembly, wherein the movable window member 16 opens whenever a person is in the immediate vicinity of the proximity sensor 60. The movable window member 16 is opened when an infrared beam is detected by an infrared receiver 62 and is closed when the infrared beam is not detected by the infrared receiver 62. The sensor 60 has an integral emitter 61 and receiver 62. The admitted prior art of figure 5 is silent concerning focusing a plurality of sensors upwardly.

However, Boiucaner, in figure 2, discloses a sensor 10 having a plurality of integral infrared emitters 24 and sensors 26. The centerline of the sensor 10 and the centerlines of the emitters 24 and sensors 26 are slightly askew with respect to a vertical axis. The sensor 10 is angled such that it will only operate the door when a person is in a predetermined desired position.

It would have been obvious to one of ordinary skill in the art to position a plurality of sensors of the admitted prior art of figure 5 upwardly to only operate the door when a person is in a desired predetermined position, as taught by Boiucaner, to prevent the door from unwantedly opening, to conserve energy and to increase the working life of the door.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hagenbook, Jonsson, Utke and Gionet et al. are cited for teaching positioning sensors

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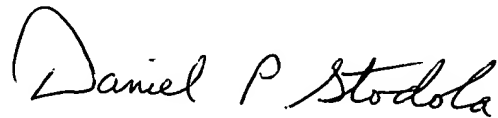
for operating a closure in such a way that only when a person is in a predetermined position will the sensors function to operate a motor to move the closure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

10/9/98

GJS

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Daniel P. Stodola
Supervisory Patent Examiner
Group 3600